

HILL AND KNOWLTON, INC.

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Kansas City Lawsuit
Special PR No. K2-62
Monday, June 18, 1962

Ross vs. Philip Morris, Inc.

The case of Ross vs. Philip Morris got under way in Federal Court Monday, June 18, with the selection of a jury, opening statements by counsel for both sides and partial testimony by the plaintiff. A jury of 11 men and one woman and one alternate was selected (8 are cigarette smokers, 2 are former smokers, 2 non-smokers, 1 a cigar smoker).

Judge Floyd Gibson told the jury John T. Ross was suing Philip Morris on two counts -- negligence and implied warranty.

In his opening statement, Lyman Field, attorney for the plaintiff, said the evidence would show that in 1952 cancer was found on the left outside of Ross's larynx in an area known as the pyriform fossa (pear-shaped sinus). He said several medical witnesses, either in person or by deposition, would testify that this "throat" cancer was caused by the smoking of Philip Morris cigarettes over a period of years.

Field said in the 1930's and 1940's the Philip Morris company published and broadcast advertisements that gave Ross and the public "assurances of safety" with respect to the throat, if they smoked Philip Morris cigarettes.

In that same period, he said, the company had available to it many medical journal articles and textbooks about the cancer-causing effects of cigarette smoking on throat tissues. His efforts to introduce lung cancer data were objected to by defense counsel and sustained by the court.

David Hardy, opening for the defense, said evidence will be presented to show that cancer is one of the great mysteries of the medical and scientific world. The causes of the disease are not known, he said, and many suspects are being investigated throughout the world.

Hardy said that even if it was proved that cigarette smoking causes cancer, it could not have caused Ross's cancer because the pyriform fossa is part of the digestive tract, not the respiratory tract.

He told the jury that the pyriform fossa (there are two such organs) sit atop the esophagus and are closed when a person breathes. They open when a person eats or drinks to permit food to pass into the esophagus and down to the stomach.

He said the evidence will show that among the many suspect factors in cancer of this area is alcohol and that Ross at one time had become more than a "moderate" drinker and had attended sessions of Alcoholics Anonymous.

Ross was on the stand when court was recessed for the day. He said he became a confirmed Philip Morris cigarette smoker about 1934 and smoked this brand exclusively until his cancer was diagnosed and removed in 1952.

He said that at one time -- for a year or a year and a half -- he attended Alcoholics Anonymous. He also said that between 1932 and 1946 he was arrested three times -- once for drunk driving, twice for intoxication.

Ross is expected to return to the stand when the trial resumes Tuesday.

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The Kansas City Star has a reporter assigned to the trial and carried a story Monday afternoon about the jury selection.

Hill and Knowlton, Inc.
150 East 42nd Street
New York 17, N.Y.

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